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DWS Policy 94-02
Determination Of Public Or Private Water System Type
For Establishments Serving Food
(Year 2000 Printing)

Effective Date: 9-21-95

Supersedes Policy, SOP or Guidance #:

Approved by: David Y. Terry

Policy, SOP or Guideline # 94-02

This policy is intended to provide guidance in determination of Water system type for systems serving food to the public, as either public water systems or private systems.

Background

Many small water systems and Boards of Health (BOH) have requested Department of Environmental Protection, Division of Water Supply's (DEP/DWS) interpretation concerning the effects of certain practices at food establishments on the status of the water system; whether these systems are classified as public or private; and therefore whether such systems are regulated by DEP or by local Boards of Health (BOH) and the Department of Public Health (DPH).

Policy

It is the policy of DEP/DWS to not regulate a water system (facility) as a public water supply when and if it is documented to DEP's satisfaction with the concurrence of the local BOH that the facility (1) employs fewer than 25 persons and (2) does not use piped water on its premises for human consumption, including but not limited to, drinking, food preparation, beverage preparation, ice making, soda making, bathing, dishwashing, etc., and that (3) the general public does not have access to water from the water system, including the bathrooms (with associated faucets). The local BOH in cooperation with DEP/DWS will ensure that the facility does not change its practices in the future and become a public water system without DEP's review and approval.

Rationale and Discussion

A public water system is defined by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the Massachusetts drinking water regulations at 310 CMR 22.02 as "a system for provision to the public of piped water for human consumption if such a system has at least 15 service connections.....or regularly serves an average of at least twenty five (25) individuals daily for at least sixty (60) days per year." DEP/DSW regulates public water systems. Private water systems are those which do not meet the definition of a Public Water System and are regulated by municipal Boards of Health and the State Department of Public Health.

This policy is limited to the specific situation described. If a system with its own source of ground or surface water does not serve its piped water to the public, does not provide access to bathroom facilities or other access to its water to the public, does not use the water for preparation of food served to the public or for any other use for human consumption, and does not employ more than 25 people, DEP/DWS considered the system to be a private water system under the jurisdiction of the local Board of Health and DPH. This policy may apply to gas stations, convenience stores, etc.

This is the policy of the Department of Environmental Protection's Division of Water Supply. Other State and/or municipal bodies (e.g. the State Plumbing Board and the Department of Public Health) may have other related requirements for food establishments which are not addressed by this policy.

Attachments to this Policy:

- 1) DPH/DEP document entitled "Regulations relative to well water supplies in food establishments." Dated November 93.
- 2) DEP/DWS Policy on recommended private well monitoring.

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WELL WATER SUPPLIES IN FOOD ESTABLISHMENTS

Prepared by: MA Dept of Public Health - Division of Food and Drugs
MA Dept of Environmental Protection - Division of Water Supply

Section 590.015, Water Supply, of Massachusetts regulation 105 CMR 590.000, Minimum Sanitation Standards for Food Establishments Article X, requires all licensed food establishments to have sufficient potable water for the needs of the operation from a source which is constructed, maintained and operated in accordance with applicable laws. The potential of contaminated well water in food establishments is a serious public health issue that must be closely monitored by all involved agencies.

Public Water Supply Systems

Because regulations and laws for private and public water supply systems differ, the water system category for a licensed food establishment must first be identified as private or public. The federal Safe Drinking Water Act as amended by Congress in 1986 and the Drinking Water Regulation 310 CMR 22.02, promulgated and enforced by the Massachusetts Department of Environmental Protection (DEP), provide the legal definition of a regulated "public" water supply. This definition of a regulated public water system is as follows:

PUBLIC WATER SYSTEM means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year. Such term includes (1) any collection, treatment, storage and distribution facilities under control of the operator of such a system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such systems. A public water system is either a "community water system" or a "non-community system".

Community water system means a public water system which serves at least (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. An example of a food operation with a community water system is a nursing home with 25 or more year-round residents.

Transient Non-community water system or (TNC) means a public water system that is not a community water system. Examples of food establishment operations with a TNC water system may include campgrounds, gas stations, convenience stores and small restaurants.

Non-transient Non-community Water System or (NTNC) means a public water system that is not a community water system and that regularly serves at least 25 people or more approximately four or more hours per day, four or more days per week, more than 6 months or 180 days per year, such as schools, hospitals, large restaurants and supermarkets and workplaces providing water to its employees.

Private Water Supply Systems

Commercial food establishments with private water systems are regulated by the local board of health.

Periodic testing of water from private water systems in food service and retail food establishments should be required by local boards of health.

In 1989, DEP issued "Private Well Guidelines" and "Model Board of Health Regulations for Private Wells" designed to give guidance to boards of health in overseeing private wells. Chapter 111, Section 31 of the Massachusetts General Laws grants local boards of health broad authority to "make reasonable health regulations".

Boards of health are encouraged to adopt locally appropriate private well regulations which take into consideration local geology, land uses and zoning regulations.

Additionally, Chapter 40, Section 21 of the Massachusetts General Laws grants municipalities the authority to adopt ordinances and bylaws which may, for example, require land owners to properly maintain their on-site private water supply systems.

DEP's Drinking Water Regulations, 310 CMR 22.00 include analytical methods which are required to be used by certified laboratories and water quality standards which should be used as guidelines for interpreting the results of analysis performed on water samples obtained from private water systems. In addition to routine testing requirements, the following criteria should be considered in approving and monitoring private well sources in food establishments:

- In accordance with 105 CMR 590.000 – Minimum Sanitation Standards for Food Establishments - Article X, potable water is necessary for drinking, for use as an ingredient in food and beverages, for use in handwashing and warewashing sinks, in dishwashing machines and for general cleaning and maintenance of the physical facility. Non-potable water systems may be used only for air conditioning, equipment cooling and fire protection, and shall be installed according to law. Non-potable water systems must not be cross-connected to any potable water supply.
- In accordance with 105 CMR 590.000 and 310 CMR 22.00, cross connections between a private well and a public water supply are strictly prohibited. Private wells must be physically disconnected from the public water system and the pipes carrying private well and public water must be kept completely separate and durably identified so that they are readily distinguishable from each other.
- Any food establishment intending to install an on-site well should contact their regional DEP Office and the local board of health to determine the type of water system (private or public) before the well is drilled. Plan review including site approval procedures involving communication between the board of health and other departments such as the building, plumbing and zoning is essential in identifying well sources which should be regulated by the board of health. If a public water supply system already serves the facility or is within the nearby area, the public water Supplier which serves that area should also be informed.
- Boards of health in urban areas where the risk for well contamination is high may wish to pass regulations which strictly prohibit wells in food establishments when an existing public water supply system is available.
- Water from newly dug private wells should be sampled and tested prior to the installation of any water treatment device.
- Existing wells in food establishments which are classified as public water systems and require water treatment devices to meet the MCL's, require DEP approval. Such wells must be routinely monitored by a certified water operator as defined by DEP. Food establishments with private wells which require water treatment devices to meet the DEP's maximum contaminant levels (MCL's) are high risk systems and should require additional testing by the establishment and monitoring by the board of health.

For more information, please contact:

MA Division of Food and Drugs (617) 727-2670 Or (617) 727-2671

MA DEP – Division of Water Supply (617)292-5770
Water Quality Assurance

MA DEP Regional Offices

Northeast Region: Water Supply	(978) 661-7600
Central Region: Water Supply	(508) 792-7650
Southeast Region: Water Supply	(508)946-2700
Western Region: Water Supply	(413) 784-1100